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*Attorneys for MESA VERDE HOMEOWNERS ASSOCIATION*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

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BANK OF AMERICA, N.A., SUCCESSOR  
BY MERGER TO BAC HOME LOANS  
SERVICING, LP FKA COUNTRYWIDE  
HOME SERVICING, LP,

Plaintiff,

v.

MESA VERDE HOMEOWNERS  
ASSOCIATION; SFR INVESTMENTS  
POOL 1, LLC; ALESSI & KOENIG, LLC,

Defendants.

CASE NO.: 2:16-cv-00498-JCM-NJK

**STIPULATION AND ORDER TO TAKE  
CERTAIN DEPOSITION OUTSIDE THE  
CLOSE OF DISCOVERY AND TO STAY  
DISPOSITIVE MOTION DEADLINE**

IT IS HEREBY STIPULATED by and between MESA VERDE HOMEOWNERS ASSOCIATION, SFR INVESTMENTS POOL I LLC, ALESSI AND KOENIG, LLC, and BANK OF AMERICA, N.A., by and through their respective counsels to take the FRCP 30(B)(6) Witness Deposition for Mesa Verde Homeowners Association and Alessi & Koenig, LLC after discovery closes on October 10, 2016, and to stay the FRCP 30(B)(6) Witness Deposition for Bank of America N.A (**BANA**) until the court rules on BANA's forthcoming motion for protective order. The parties also agree to stay the dispositive motions deadline from November 9, 2016, to 60 days after the court's decision on BANA's motion for protective order. In accordance with LR IA 6-1, the parties state that this is the first request for extension of time.

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**REASONS FOR NECESSITY OF STIPULATION**

The FRCP 30(b)(6) Deposition of Mesa Verde Homeowners Association was noticed to take place on October 5, 2016. However, the deponent was unavailable and will not be available until after the close of discovery, so the deposition could not go forward as noticed.

The FRCP 30(b)(6) Deposition of Alessi & Koenig, LLC was also noticed to take place on October 5, 2016. However, the deponent failed to timely produce initial disclosures or respond to discovery requests, so the deposition could not go forward as noticed.

The FRCP 30(b)(6) Deposition of BANA was noticed by SFR Investment Pool I LLC (**SFR**) to take place on October 3, 2016. However, prior to the deposition, BANA informed SFR that BANA will file a motion for protective order on topics and location, and SFR has agreed to stay the deposition to allow the motion to be filed and resolved. Therefore, the deposition did not go forward as noticed. The deposition of BANA was subsequently moved to October 10, 2016. BANA intends to file a motion for protective order by October 14, 2016.

As a result, the parties have agreed to take the FRCP 30(b)(6) Depositions of Mesa Verde Homeowners Association and Alessi & Koenig, LLC on or before October 31, 2016. All other discovery has either been completed or will be completed in this matter with the exception of the above mentioned depositions and a motion to compel production of the original note and other relevant documents that SFR intends to file against BANA. The parties have participated in discovery in good faith, but were unable to conduct the scheduled depositions before the discovery cut off. The parties believe that allowing the specific depositions to take place outside of discovery is appropriate and necessary given the circumstances.

Given the need to take the depositions of Mesa Verde Homeowners Association, Alessi & Koenig, and possibly BANA, outside the close of discovery, the parties agree to stay the dispositive motions deadline until 60 days after the deposition of BANA.

1 The current deadline is November 9, 2016. The parties do not seek an extension  
2 of the pretrial order deadline, as there are pending motions for summary judgment and  
3 the parties anticipate filing additional motions for summary judgment in this matter,  
4 which will stay the pretrial order submittal deadline. As result, the parties' have good  
5 cause to stay the dispositive motions deadline.

6 The parties have excusable neglect for not filing this stipulation regarding the  
7 HOA's, Alessi & Koenig's, and BANA's deposition 21 days before the close of discovery.  
8 "[T]he determination of whether neglect is excusable is an equitable one that depends  
9 on at least four factors: (1) the danger of prejudice to the opposing parties; (2) the  
10 length of the delay and its potential impact on the proceedings; (2) the reason for the  
11 delay; and (4) whether the movant acted in good faith." *Bateman v. U.S. Postal Service*,  
12 231 F.3d 1220 (9th Cir. 2000).

13 There is no prejudice to any party with the filing of this stipulation at this time.  
14 The parties have been working together to coordinate the various schedules and  
15 depositions. The length of the delay is minimal considering the parties have abided by  
16 FRCP 1 and coordinated in an effort to reduce fees and costs, and all other discovery is  
17 or will be complete within the discovery period. The reason for this delay was the  
18 coordination efforts, which were all in good faith and the meet-and-confer efforts on the  
19 forthcoming discovery motions. Bank's counsel also had a recent departure of counsel,  
20 which delayed the noticing of the HOA's, Alessi & Koenig's, and BANA depositions.

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**DISCOVERY COMPLETED**

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2	Bank of America, N.A.'s Initial Disclosures Pursuant	June 16, 2016
3	to Federal Rule of Civil Procedure 26(a)(1)	
4	SFR Investment Pool I, LLC's 26(a) Disclosure of	June 10, 2016
5	Witnesses and Documents	
6	Bank of America, N.A.'s First Supplemental Disclosures	July 5, 2016
7	Pursuant to Federal Rule of Civil Procedure 26(a)(1)	
8	SFR Investment Pool I, LLC's Initial Expert Disclosure	August 11, 2016
9	Bank of America, N.A.'s Initial Expert Disclosures	August 11, 2016
10	Pursuant to Federal Rule of Civil Procedure 26(a)(1)	
11	SFR Investments Pool I, LLC's Interrogatories to	August 20, 2016
12	Bank of America	
13	Mesa Verde Homeowners Association's Requests for	August 22, 2016
14	Admission to Bank of America, N.A.	
15	Mesa Verde Homeowners Association's Requests for	August 22, 2016
16	Production of Documents to Bank of America, N.A.	
17	Mesa Verde Homeowners Association's Interrogatories	August 22, 2016
18	to Bank of America, N.A.	
19	Mesa Verde Homeowners Association's Initial	August 22, 2016
20	Disclosures Pursuant to FRCP 26(a)	
21	SFR Investments Pool I, LLC's Requests for Admission	August 29, 2016
22	to Bank of America, N.A.	
23	SFR Investments Pool I, LLC's Requests for Production	August 29, 2016
24	of Documents to Bank of America, N.A.	
25	Bank of America, N.A.'s Requests for Admission to	September 2, 2016
26	Alessi & Koenig, LLC	
27	Bank of America, N.A.'s Requests for Production of	September 2, 2016
28	Documents to Alessi & Koenig, LLC	
	Bank of America, N.A.'s Interrogatories to	September 2, 2016
	Alessi & Koenig, LLC	
	Bank of America, N.A.'s Requests for Admissions to	September 2, 2016
	Mesa Verde Homeowners Association	

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1	Bank of America, N.A.'s Requests for Production of	September 2, 2016
2	Documents to Mesa Verde Homeowners Association	
3	Bank of America, N.A.'s Interrogatories to	September 2, 2016
4	Mesa Verde Homeowners Association	
5	Bank of America N.A.'s Requests for Admission to	September 2, 2016
6	SFR Investment Pool I, LLC	
7	Bank of America, N.A.'s Request for Production of	September 2, 2016
8	Documents to SFR Investments Pool I, LLC	
9	Bank of America, N.A.'s Interrogatories to	September 2, 2016
10	SFR Investment Pool I, LLC	
11	Bank of America, N.A.'s Second Supplemental	September 2, 2016
12	Disclosures Pursuant to Federal Rule of Civil	
13	Procedure 26(a)(1)	
14	Mesa Verde Homeowners Association and SFR	September 9, 2016
15	Investment Pool, I, LLC's Joint Rebuttal Expert	
16	Disclosure in accordance with FRCP 26(a)(2)	
17	Bank of America, N.A.'s Responses to Mesa Verde	September 27, 2016
18	Homeowners Association's Requests for Admission	
19	Bank of America, N.A.'s Responses to Mesa Verde	September 27, 2016
20	Homeowners Association's Requests for Production	
21	of Documents	
22	Bank of America, N.A.'s Responses to Mesa Verde	September 27, 2016
23	Homeowners Association's Interrogatories	
24	Bank of America N.A.'s Responses to SFR	September 27, 2016
25	Investments Pool I, LLC's Request for Admission	
26	Bank of America, N.A.'s Responses to SFR	September 27, 2016
27	Investments Pool I, LLC's Requests for Production	
28	of Documents	
	Bank of America, N.A.'s Responses to SFR	September 27, 2016
	Investments Pool I, LLC's Interrogatories	
	FRCP 30(b)(6) Deposition of SFR	October 5, 2016

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**PROPOSED SCHEDULE FOR REMAINING DISCOVERY AND DEADLINE**

FRCP 30(b)(6) Deposition of Mesa Verde Homeowners Association:  
On or before October 31, 2016

FRCP 30(b)(6) Deposition of Alessi & Koenig:  
On or before October 31, 2016

FRCP 30(b)(6) Deposition of Bank of America, N.A.:  
Stayed pending a decision on BANA's motion for protective order that will be filed on or  
before October 14, 2016.

Dispositive Motion Deadline:  
Stayed until 60 days after the court rules on BANA's forthcoming motion for protective  
order.

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Good cause exists to allow the HOA's deposition to go forward outside the close of discovery and to stay the dispositive motion deadline 60 days until after a ruling on Bank of America's protective order. This stipulation is made by the parties in good faith and not for the purpose of delay.

Dated this 21<sup>st</sup> day of October, 2016

AKERMAN, LLP

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Dated this 21<sup>st</sup> day of October, 2016

KIM GILBERT EBRON

/s/ Diana Cline Ebron

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*Attorneys for SFR Investments Pool I, LLC*

Dated this 21<sup>st</sup> day of October, 2016

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/s/ Siria L. Gutierrez

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Dated this 21<sup>st</sup> day of October, 2016

ALESSI & KOENIG, LLC

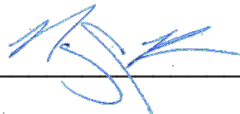
/s/ Steven T. Loizzi

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*Attorney for Alessi & Koenig, LLC*

### **ORDER**

IT IS SO ORDERED.

Dated October 24, 2016



UNITED STATES DISTRICT COURT MAGISTRATE JUDGE